

Tellico Harbor Property Owners' Association

Rules & Regulations – Section 1

Appellate Hearing – Rev. 3

Pursuant to the Declaration of Covenants, Conditions, and Restrictions ("DCC&Rs") of Tellico Harbor Property Owners' Association (the "Association"), the following written rules and regulations are adopted in order to further and foster opportunity for property owners to appeal decisions made by the Board, Covenant Compliance Committee (CCC) or Architectural Control Committee (ACC) with regard to alleged violations of the provisions and requirements of the DCC&Rs, the Bylaws and Rules & Regulations (hereinafter collectively the "governing documents") of the Association or denial by the ACC of applications submitted by the owner. These rules are intended solely to define the procedures and opportunity for owners to appear before the Board to present circumstances, witnesses, defenses or hardships regarding such decisions by the Board, CCC or ACC. These Rules and Regulations are not intended to supplant or amend the governing documents, and in the event of an inconsistency or conflict between these Rules and the governing documents of the Association, the governing documents provisions will supersede and apply.

1. Request for Hearing

- A. Introduction: Any owner may request a hearing to offer a defense to or to explain extenuating circumstances regarding alleged violations of the governing documents or denial of applications submitted to the ACC by the owner.
- B. Request For Hearing: The owner must submit a written request for an Appellate Hearing which shall be mailed or delivered to the Association at 2000 Cherokee Dr., Maryville, TN 37801. The appeal request must contain the following:
 - 1. Owner's name, mailing address, phone number and lot number.
 - 2. Owner's reasons and basis for requesting an Appellate Hearing.
 - 3. A copy of all supporting documentation.
 - 4. The names of any possible attorneys, witnesses or other collaborating guests.
 - 5. The owner's signature and date.

2. Processing the Appeal

- A. Upon receipt of an appeal, the Board shall determine if the appeal was properly filed and notify the appellant member of any deficiency.
- B. If the appeal is properly filed, the Board shall furnish a copy of the appeal to the ACC and/or CCC and notify any POA member specifically and individually affected by the appeal, as determined by the Board.

3. Hearing Procedure

- A. Hearings shall be held in executive session because they may involve privacy and/or possible litigation issues. The Board may exclude any person(s) from the Hearing other than the owner or alleged violator, his/her attorney and witnesses. The Board, at its discretion, may also include other property owners who may be affected by the decision. Property owners who may be affected but are not present at the hearing are also entitled to provide written statements to the Board concerning the issue.

- B. No later than 10 calendar days following the receipt of the request for Appellate Hearing by the Board, the Board shall mail or deliver to the appellant owner written notice of a hearing date. The written notice will provide the date, time, and location of the hearing, which is to be determined by the Board. Normally, the hearing will be scheduled no later than 30 days from the date of the written notice. The Board shall make a reasonable effort to schedule the Appellate Hearing at a date and time that accommodates the availability of the Board members, appellant owner, witnesses and any other individuals involved in the Appellate Hearing.
- C. At the Appellate Hearing, the Board will permit the appellant owner up to 30 minutes to explain the circumstances of the matter and provide grounds as to why the decision by the Board, CCC, or ACC should be modified, changed or rescinded. Following the appellant owner's presentation, property owners affected by the decision who are present at the Hearing, will be given up to 10 minutes each to present their input to the decision. Total time for all affected property owners presentations is not to exceed 30 minutes. The Board, at its discretion, may grant additional time for appellant owner or witnesses if circumstances warrant such extension.
- D. At the hearing, the Board may consider any written or oral information produced by the owner, other affected property owners or other witnesses. Any legal or statutory rule of evidence or procedure shall not apply to the hearing, and the Board may restrict testimony or proceed in any manner or order which it deems appropriate in its discretion. Generally, any relevant evidence may be admitted if it is the sort of evidence on which responsible persons are accustomed to rely in the conduct of serious affairs. The Board may tape record or otherwise transcribe the hearing. The Board may proceed with the hearing even if the owner fails to appear or refuses to participate or to submit information. The owner may be represented by legal counsel so long as said owner gives the Board at least five (5) days prior written notice, in which case the Board's attorney may be present as well. Any participant, when recognized by the Chairman of the Board, may question any witnesses and examine any documents presented at the hearing.
- E. At the conclusion of the presentations, the hearing will adjourn. After reviewing all information and documents presented at the hearing and information provided previously or subsequently by the ACC and/or CCC, the Board's decision shall be made by majority vote of the Board members present. Within 10 calendar days of the hearing, the Board will mail or deliver written notice of the Board's decision to the owner. If additional time is needed by the Board to reach a conclusion, the appellant owner will be so notified.
- F. If the Board finds in favor of the owner, it will advise the owner as to whether the decision(s) has been modified, changed, waived or rescinded. Any adjustment(s) to Personal Charges shall be reflected on the owner's account the following month.
- G. If the Board determines that the owner's explanation or defense presented at the hearing was inadequate or otherwise failed to justify modification, change, waiver, variance or rescission, the owner will be so notified, in which case the original decision(s) will stand.

4. Rule Enforceability

- A. If any portion of these rules is determined to be legally unenforceable, it shall not negate the enforceability of the remaining portions of the rules. Technical irregularities or defects in the complaint, notice or other compliance with this rule shall not invalidate any proceedings. These rules shall be liberally construed to accomplish prompt, effective enforcement of the Association's governing documents.
- B. The Rules, Regulations, Policies and Procedures are established to promote the health, safety, and welfare of Tellico Harbor residents and owners and to support the Association's desire to preserve and enhance the property values within the development. These Rules and Regulations will take effect immediately upon passage and enactment.

DATED AND ENACTED *September 11, 2007*

James R. Horton (President)



Tom DuChemin (Vice-President)



Bob Mestach (Treasurer)



Larry Lanz (Director at Large)



Brenda Bloomfield (Acting Secretary)

